
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 5:18-cv-01728-JLS-KK
Title: Enrique Juarez v. Schenker, Inc., et al.

Date: November 15, 2018

Present: **Honorable JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE**

Terry Guerrero
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

PROCEEDINGS: (IN CHAMBERS) ORDER DENYING PLAINTIFF'S MOTION TO REMAND (Doc. 11)

Before the Court is a Motion to Remand brought by Plaintiff Enrique Juarez. (Doc. 11.) Defendant Schenker, Inc. opposed. (Doc. 17.) Plaintiff replied. (Doc. 21.) The Court finds this matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. R. 7-15. Accordingly, the hearing set for November 16, 2018, at 10:30 a.m. is removed from the calendar. For the reasons given below, the Court DENIES Plaintiff's Motion.

The Court recently denied a similar motion to remand in a related case against Schenker. *Ramos v. Schenker, Inc.*, No. 5:18-CV-01551-JLS-KK, 2018 WL 5779978 (C.D. Cal. Nov. 1, 2018). Regarding Plaintiff's assertion that the amount in controversy does not meet the \$5 million threshold for removal under the Class Action Fairness Act ("CAFA"), the Court finds the allegations, evidence and arguments here virtually identical to those submitted in *Ramos* and sees no reason to depart from the reasoning underlying that decision.

Regarding Plaintiff's assertion that the diversity requirement is not met under CAFA, the Court finds Plaintiff's tortured reading of the case law unpersuasive. Plaintiff does not dispute that Schenker is New York corporation. Plaintiff alleges that he is a resident of California. (Compl. ¶ 7.) Courts may "treat a person's residence as prima facie evidence of the person's domicile." *Mondragon v. Capital One Auto Finance*, 736 F.3d 880, 886 (9th Cir. 2013). Hence, as alleged, "[t]he presumption in favor of

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[Plaintiff's] established domicile (California) . . . plainly applies here." *Lew v. Moss*, 797 F.2d 747, 751 (9th Cir. 1986). Plaintiff contends that Defendant has not carried its burden of proving Plaintiff's California citizenship, but Plaintiff ignores the Ninth Circuit's clear instruction "that a party with the burden of proving citizenship may rely on the presumption of continuing domicile, which provides that, once established, a person's state of domicile continues unless rebutted with sufficient evidence of change."

Mondragon, 736 F.3d at 885. Plaintiff's citations to *Mondragon*'s discussion of CAFA's "local controversy" exception are inapposite to the question of diversity.

Accordingly, Plaintiff's Motion is DENIED.

Initials of Preparer: tg